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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,748

Karin Golz-Berner

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EXAMINER

MI, QIUWEN

ART UNIT

PAPER NUMBER

1655

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10/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,748	Applicant(s) GOLZ-BERNER ET AL.	
	Examiner QIUWEN MI	Art Unit 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's amendment in the reply filed on 10/14/08 is acknowledged, with the cancellation of Claims 3-4; and the additional newly added Claims 10-14. Claims 1, 2, 5-14 are pending. **Claims 1, 2, 5-14 are examined on the merits.**

Any rejection that is not reiterated is hereby withdrawn.

Claim Rejections –35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 remains rejected, claims 9-14 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of CH 258982, Honda et al (JP 2003048812 A), Chevalier et al (FR 2837705 A1), Hoshino et al (JP 2004010526 A), and Rises & CO DR (DE 3319764 A1).

This rejection is maintained for reasons of record set forth in the Office Action mailed out on 6/19/2008, repeated below, slightly altered to take into consideration Applicant's amendment filed on 10/14/08. Applicants' arguments filed have been fully considered but they are not deemed to be persuasive.

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CH 258982 teaches a cosmetic composition for skin care comprising poppy-seed (the same as *Papaver somniferum*, see Wikipedia online) oil (thus an extract), sunflower-seed oil (active agent), and water etc (see Abstract).

CH 258982 does not teach the incorporation of *Passiflora*, *Mentha*, *Myrtus* or W/O silicone oil system into the composition.

Honda et al teach a cosmetic composition for ameliorating antiaging of the skin (thus skin care) comprising *Passiflora* (see Abstract, full translation has been sent to Applicant).

Chevalier et al teach a cosmetic composition for anti-wrinkle and anti-aging purpose (thus skin care) comprising *Myrtle* (the same as *Myrtus*, see Wikipedia online) oil (thus an extract) etc (see Abstract, full translation has been sent to Applicant).

Hoshino et al teach a cosmetic composition skin care comprising *Mentha piperita* etc (see Abstract, full translation has been sent to Applicant).

Rises & CO DR teaches a composition with a W/O emulsion for skin care comprising silicone oil (see Abstract, full translation has been sent to Applicant).

"It is prima facie obvious to combine two compositions or more each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose ...[T]he idea of combining them flows logically from their having been

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individually taught in the prior art." *In re Kerkhoven*, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980) (citations omitted).

In the instant case, all of the above-listed ingredients were known for skin care. Thus, one of ordinary skill in the art would have had a reasonable expectation that the combination of these compounds would have been additively beneficial for skin care.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to combine the instant ingredients for their known benefit since each is well known in the art for skin care. This rejection is based on the well established proposition of patent law that no invention resides in combining old ingredients of known properties where the results obtained thereby are no more than the additive effect of the ingredients, *In re Sussman*, 136 F.2d 715, 718, 58 USPQ 262, 264 (CCPA 1943).

It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233; 235 (CCPA 1955). see MPEP § 2144.05 part II A. Although the prior art did not specifically disclose the amounts of each constituent, it would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to determine all operable and optimal concentrations of components because the concentrations of the claimed components are art-recognized result effective variables because they have the

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ability for skin care, which would have been routinely determined and optimized in the pharmaceutical art.

Accordingly, the instant claims, in the range of proportions where no unexpected results are observed, would have been obvious to one of ordinary skill having the above cited references before him.

Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to combine the inventions of CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR since all of them teach compositions for skin care individually in the art. Since all the compositions yielded beneficial results for skin care cosmetics, one of ordinary skill in the art would have been motivated to make the modifications. Regarding the limitation to the amount of the components in the composition, the result-effective adjustment in conventional working parameters is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan.

Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

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Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Claims 1, 2, and 9 remain rejected, and claims 10-14 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR as applied to claims 1, 3, and 4 above, and further in view of Passerini (Antiaging synthetic hexapeptides, Cosmetic Technology (Milano, Italy) (2002), 37-39).

This rejection is maintained for reasons of record set forth in the Office Action mailed out on 6/19/2008, repeated below, slightly altered to take into consideration Applicant's amendment filed on 10/14/08. Applicants' arguments filed have been fully considered but they are not deemed to be persuasive.

The teachings of CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR are set forth above and applied as before.

The combination CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR do not specifically teach hexapeptide acetyl-Glu-Glu-Met-Gln-Arg-Arg-NH₂ as an additional active agent in the composition.

Passerini teaches that some peptides mimic the anti-wrinkle effects of Botox (botulinum neurotoxin type A). The hexapeptide Ac-EEMQRR-NH₂ (part of the N-terminal region of SNAP-25) can inhibit the Ca-dependent release of catecholamines from chromaffin cells and is of value for antiaging cosmetic application (see Abstract, full translation has been sent to Applicant).

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Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use the synthetic hexapeptide from Passerini since Passerini teaches that the is of value for antiaging cosmetic application. Since all the compositions yielded beneficial results for skin care cosmetics, one of ordinary skill in the art would have been motivated to make the modifications. Regarding the limitation to the amount of the components in the composition, the result-effective adjustment in conventional working parameters is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan.

Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Claims 1, and 7 remain rejected, and claims 9-14 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR as applied to claims 1, 3, and 4 above, and further in view of Golz-Berner et al (US 6,426,080 B1).

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This rejection is maintained for reasons of record set forth in the Office Action mailed out on 6/19/2008, repeated below, slightly altered to take into consideration Applicant's amendment filed on 10/14/08. Applicants' arguments filed have been fully considered but they are not deemed to be persuasive.

The teachings of CH 258982, Honda et al, Chevalier et al, Hoshino et al, Rises & CO DR are set forth above and applied as before.

The combination of CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR do not specifically teach Quebraco blanco bark extract, a silkworm extract, hydrogel, and phospholipids in the composition.

Golz-Berner et al teach a cosmetic preparation that are particularly effective against free radical aggression comprising a Quebraco blanco bark extract containing at least 90 wt.% proanthocyanidin oligomers, a silkworm extract, hydrogel, phospholipids, and water. Golz-Berner et al also teach that the preparations have protection factors of between 40 and 200 (see Abstract). Golz-Berner et al further teach that a wide range of compounds maybe used as softeners, such as silicon oils (col 7, lines 1-5), and cosmetic preparations with may exist as O/W emulsions or W/O emulsions (col 7, lines 5-10).

Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use the Quebraco blanco bark extract, a silkworm extract, hydrogel, phospholipids, and water from Golz-Berner et al since Golz-Berner et al teach that the preparation has protection factors of between 40 and 200. Since all the compositions yielded beneficial results for skin care cosmetics, one of ordinary skill in the art would have been

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motivated to make the modifications. Regarding the limitation to the amount of the components in the composition, the result-effective adjustment in conventional working parameters is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan.

Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Claims 1, 5, and 6 remain rejected, and claims 9-14 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR as applied to claims 1, 3, and 4 above, and further in view of Kamei et al (US 2004/0091439), as evidenced by Sakuta et al (US 6,426,080 B1)*.

This rejection is maintained for reasons of record set forth in the Office Action mailed out on 6/19/2008, repeated below, slightly altered to take into consideration Applicant's amendment filed on 10/14/08. Applicants' arguments filed have been fully considered but they are not deemed to be persuasive.

The teachings of CH 258982, Honda et al, Chevalier et al, Hoshino et al, Rises & CO DR are set forth above and applied as before.

The combination of CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR do not specifically teach cyclotetrasiloxane, Dimethicone & PEG 10 dimethicone crosspolymer & PEG 15 dimethicone crosspolymer in the composition.

Kamei et al teach a cosmetic composition for skin care [0055] comprising KSG-210. Kamei et al also teach that examples of silicone oils which can be used include cyclotetrasiloxane etc [0045]. Kamei et al also teach that the composition provides good water resistance and sebum resistance a low aggregation tendency and an excellent dispersibility (see Abstract).

As evidenced by Sakuta et al, the INCI name of KSF 210 is dimethicone, dimethicone (PEG-10/15) crosspolymer [0119].

Therefore, it would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use dimethicone (PEG-10/15) crosspolymer (KSG-210) from Kamei et al since Kamei et al teach that the composition provides good water resistance and sebum resistance, a low aggregation tendency and an excellent dispersibility. Since all the compositions yielded beneficial results for skin care cosmetics, one of ordinary skill in the art would have been motivated to make the modifications. Regarding the limitation to the amount of the components in the composition, the result-effective adjustment in conventional working parameters is deemed merely a matter of judicious selection and routine optimization which is well within the purview of the skilled artisan.

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Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

*This reference is cited merely to relay an intrinsic property and is not used in the basis for rejection *per se*.

Claims 1, and 8 remain rejected, and claims 9-14 are newly rejected under 35 U.S.C. 103(a) as being unpatentable over CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR as applied to claims 1, 3, and 4 above.

This rejection is maintained for reasons of record set forth in the Office Action mailed out on 6/19/2008, repeated below, slightly altered to take into consideration Applicant's amendment filed on 10/14/08. Applicants' arguments filed have been fully considered but they are not deemed to be persuasive.

The teachings of CH 258982, Honda et al, Chevalier et al, Hoshino et al, Rises & CO DR are set forth above and applied as before.

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The combination of CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR do not specifically teach the cosmetic contains neither pigment nor powder.

It would have been *prima facie* obvious for one of ordinary skill in the art at the time the invention was made to use a cosmetic composition contains neither pigments nor powder since pigments and powder are not indispensable components in a cosmetic composition. For instance, none of the references taught by CH 258982, Honda et al, Chevalier et al, Hoshino et al, and Rises & CO DR include a pigment or powder in the composition, and whether pigment or powder is included in a cosmetic composition is purely optional, which is deemed merely a matter of judicious selection which is well within the purview of the skilled artisan.

Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

From the teachings of the references, it is apparent that one of the ordinary skills in the art would have had a reasonable expectation of success in producing the claimed invention.

Thus, the invention as a whole is *prima facie* obvious over the references, especially in the absence of evidence to the contrary.

Applicant argues that “Turning now to the cited references. Ciba is drawn to a skin-care product that includes nicotinic acid amide and a substance with Vitamin F action. The Ciba product is designed to sustain skin in its normal state. See Ciba Translation, p. 2, 1st full

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paragraph. In particular, Ciba is drawn to a synergistic effect of several specific substances having a Vitamin-F effect, including *Papaver* oil, and nicotinic acid amide. *See* Ciba Translation, p. 2, 2^a and 3^r full paragraphs” (page 8, 1st paragraph). Applicant further argues that “Applicants note three primary deficiencies with this reference. First, the reference refers to *Papaver* oil, which one of ordinary skill in the art would understand as referring to a pressed oil or an essential oil produced using steam distillation. In either case, Ciba does not disclose the claimed extract obtained from *Papaver* using a polyvalent alcohol at 20-50°C. Second, in the original German, the reference refers to *Papaver* oil (rather than poppy seed oil), thus it is not clear that the source of the papaver oil is the seeds. Finally, the objective of Ciba is to "sustain the skin in its normal state," not to eliminate pre-existing wrinkles. *See* Ciba Translation, p. 1, 1st paragraph. Thus, there would be no motivation to combine the Ciba reference with any other reference in order to develop the any cosmetic composition having an anti-wrinkle effect, much less the claimed combination of four extracts” (page 8, 2nd paragraph).

This is not found persuasive. Ciba explicitly teaches using poppy seed oil on page 2, 3rd paragraph of the full translation. Since the extract of poppy seed is used, the extract would inherently perform the intended function of "anti-wrinkle". Regarding to the new claim limitation about extracting process, as indicated above, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

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Applicant argues that “The Chevalier reference is drawn to a complex of essential oils and cosmetic products incorporating the complex of essential oils. The Chevalier essential oil complex that includes myrtle with myrtenyl acetate is for treating "cellulite and heavy leg" and rosacea. *See Chavalier Translation*, p. 5, ln. 18 - p. 6, ln. 12 & p. 11, ln. 6 - p. 12, ln. 13. In contrast, the embodiment of Chavalier focusing on anti-wrinkle applications does not include myrtle with myrtenyl acetate. *See Chavalier Translation*, p. 6, ln. 13 - p. 7, ln. 10” (page 8, 3rd paragraph). Applicant further argues that “Thus, Chevalier teaches away from the claimed subject matter for at least three reasons. First, the Chavalier discloses an essential oil produced from steam distillation or cold press, but does not disclose or suggest the claimed *Myrtus* extract comprising an alcohol that is obtained from *Myrtus* flowers at 20-50°C. Second, Chavalier does not disclose or suggest that an essential oil of myrtle with myrtenyl acetate, much less the claimed alcoholic myrtle extract, would be useful for producing an anti-wrinkle effect. Finally, the claimed subject matter does not include myrtenyl acetate” (page 8, last paragraph).

This is not found persuasive. The claims use open language “comprising”, thus it does not preclude the components, such as myrtenyl acetate, that is not in the claim. Regarding to the new claim limitation about extracting process, as indicated above, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

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Applicant argues that “The Hoshino reference refers to cosmetic compositions containing steam distillates of numerous plants, including mint. *See* Hoshino Translation, paragraph [0001]. The cosmetic composition provides a "skin-beautifying use that ha[s] ameliorating effects on the dullness and clearness of the skin." *See id.* The steam distillates are the water layer portion separated from the essential oil layer following the steam distillate process. *See* Hoshino Translation, paragraph [0004] & [0035]. This is distinguishable from the claimed aqueous *Mentha* extract obtained at 20-50°C” (page 9, 1st paragraph).

This is not found persuasive. As indicated above, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

Applicant argues that “Finally, the Riese reference is drawn to a cosmetic composition containing a water-in-oil emulsion where 25 to 50% of the grease in the outer phase is replaced by volatile silicone oil. *See* Riese Translation, p. 4, 4th full paragraph. This substitution avoids the undesirable "grease luster" of prior art approaches by replacing the grease phase with silicone oil, which does not form grease. *See* Riese Translation, p. 3, last paragraph & p. 5, 2nd full paragraph. Thus, Riese does not address any aspect of the effect of the claimed subject matter or, in particular, the unexpected benefits of the claimed combination of aqueous and alcoholic extracts” (page 9, 3rd paragraph).

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This is not found persuasive. Since the reference teaches the claimed component silicone oil being used in a cosmetic composition, the component will inherently perform the intended function of the claims, regardless of whether the reference explicitly teaches the function or not.

Applicant presents the allegedly unexpected results on pages 10-13. However, the results can not overcome the obviousness rejections.

This is not found persuasive. According to MPEP 716.02 (a), a greater than additive effect is not necessarily sufficient to overcome a prima facie case of obviousness because such an effect can either be expected or unexpected. Applicants need further show that the results were greater than those which would have been expected from the prior art to an unobvious extent, and that the results are of a significant, practical advantage. *Ex parte* The NutraSweet Co., 19 USPQ2d 1586 (Bd. Pat. App. & Inter. 1991). In the instant case, Applicant needs to present a side by side comparison between the claimed invention and the closest art to show the allegedly surprising results. However, instead of comparing with the cited prior art, Applicant compares cream of Example 1 and cream of Example 2 a with a cream without any extracts (page 10, Table 1), also compares Group I, and Group II with Group III (without any active agents). Therefore, the allegedly unexpected results on pages 10-13 cannot overcome the obviousness rejections.

Applicant's arguments have been fully considered but they are not persuasive, and therefore the rejections in the record are maintained.

Conclusion

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No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qiuwen Mi whose telephone number is 571-272-5984. The examiner can normally be reached on 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Flood/

Primary Examiner, Art Unit 1655

QM